

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

DWAYNE COMEGER, ET AL.

PLAINTIFFS

v.

CAUSE NO. 1:14CV285-LG-JCG

WELLS FARGO BANK, N.A., ET AL.

DEFENDANTS

ORDER DISMISSING CASE FOR FAILURE TO PROSECUTE

This cause comes before the Court *sua sponte*, for consideration of dismissal.

On March 4, 2015, Magistrate Judge John C. Gargiulo entered an Order to Show Cause Why This Case Should Not Be Dismissed For Plaintiffs' Failure to Prosecute [10]. In the Order to Show Cause, Judge Gargiulo set out the procedural history of this case, noting that:

Pro se Plaintiffs Dwayne Comeger and Joyce Comeger have not responded to Defendants' Morris & Associates and Emily Kaye Courteau's [5] Motion to Dismiss, and the time for doing so has passed. Plaintiffs have not served Defendant Wells Fargo Bank NA, and the time for doing so has passed. The Court's [7] Order to Show Cause Why Defendant Wells Fargo NA Should Not Be Dismissed for Plaintiffs' Failure to Serve Process has been mailed to Plaintiffs twice and has twice been returned as unclaimed and unable to forward. Plaintiffs are responsible for prosecuting this case and have taken no action to do so since the filing of their Complaint on July 21, 2014.

(Order to Show Cause at 1, ECF No. 10). Judge Gargiulo granted the plaintiffs additional time, until March 18, 2015, to inform the Court whether there was good cause to allow the case to proceed rather than dismiss it for plaintiffs' failure to prosecute. Plaintiffs were informed that the Court had the authority to dismiss the case under Fed. R. Civ. P. 41(b). *Link v. Wabash R.R.*, 370 U.S. 626 (1962); *Larson v. Scott*, 157 F.3d 1030 (5th Cir. 1998); *McCullough v. Lynaugh*, 835 F.2d

1126 (5th Cir. 1988).

The Order to Show Cause was mailed to plaintiffs at their last address of record, but there has been no response filed, and the time for doing so has passed. Under these circumstances, the Court concludes that plaintiffs' inaction is indicative of a lack of interest in pursuing this case, warranting dismissal pursuant to FED. R. CIV. P. 41(b).

IT IS THEREFORE ORDERED AND ADJUDGED that the plaintiffs' claims are **DISMISSED** without prejudice pursuant to FED. R. CIV. P. 41(b) for failure to prosecute.

SO ORDERED AND ADJUDGED this the 20th day of March, 2015.

s/ *Louis Guirola, Jr.*
LOUIS GUIROLA, JR.
CHIEF U.S. DISTRICT JUDGE